IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE ELEVENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 11224 of 2002

Between:

1 G.Pathasarathy, S/o.G.Suraymanyam,
Tirupathi, Chittoor District.
2 R.Krishna Murthy, S/o.R.Goni Kuppaiah,
Tirupathi, Chittoor District.
3 K.R.Narasimhulu, S/o.K.R.Changaiah,
Tirupathi, Chittoor District.
4 M.Srinivasulu, S/o.M.Chinnabba,
Tirupathi, Chittoor District.
5 C.Subrahmanya, S/o.C.Pottaiah,
Tirupathi, Chittoor District.
6 D.Adinarayana Reddy, S/o.Pulla Reddy,
Tirupathi, Chittoor District.
7 K.Perumal SA/o.K.Venkatamuni,
Tirupathi, Chittoor District.
8 K.Jitendra, S/.o K.K.Sreenaiah,
Tirupathi, Chittoor District.
9 Y.Changaiah, S/o.y.Anjaneyulu,
Tirupathi, Chittoor District.
10 M.Vijayakumar, S/o.Venkatamuni,
Tirupathi, Chittoor District.
11 C.Muniratnam S/o.C.Munaswamy,
Tirupathi, Chittoor District.
12 T.Balakrishnaiah, S/o.T.Sreenivasulu,
Tirupathi, Chittoor District.
13 J.Bala, S/o.J.Sreenivasulu,
Tirupathi, Chittoor District.
14 S.Parthasarathy, S/o.Santha Kumar,
Tirupathi, Chittoor District.
15 T.Kurpala Reddy, S/o.T.Neela Reddy,
Tirupathi, Chittoor District.
16 M.B.V.Shankar Singh, S/o.B.Balaram Singh,
Tirupathi, Chittoor District.
17 B.Chandrasekhar, S/o.Muniratham,
Tirupathi, Chittoor District.

18 M.S.Narasimharaju, S/o.M.S.Hanimantha raju,
Tirupathi, Chittoor District.
19 K.Venkata Subbaiah, S/o.K.Ramakfishnaiah,
Tirupathi, Chittoor District.
20 N.NadamuniReddy, S/o.N.Venkataqsubbareddy,
Tirupathi, Chittoor District.
21 A.Umasankararеddy, S/o.Guravareddy,
Tirupathi, Chittoor District.
22 G.Subrahmanyam, S/o.G.Cheeralaiah,
Tirupathi, Chittoor District.
23 A.Krishnaiah, S/o.A.Nagaiah,
Tirupathi, Chittoor District.
24 J.Muniratham, S/o.J.Venkatamuni,
Tirupathi, Chittoor District.
25 M.Murali, S/o.M.Ramakrishnaiah,
Tirupathi, Chittoor District.
26 K.Bhaskar, S/o.K.Venkata Reddy,
Tirupathi, Chittoor District.
27 P.Muniswamy, S/o.P.Boddaiah,
Tirupathi, Chittoor District.
28 A.Kesavulu, S/o.A.Guravaiah,
Tirupathi, Chittoor District.
29 T.Punayakoti, S/o.T.Boya Chetty,
Tirupathi, Chittoor District.

All the petitioners are working as NMRs in Engineering Section at Tirupathi Municipality,Tirupathi,Chittoor district.

...PETITIONERS

AND

1 The Tirupathi Municipality,
rep.by its Commissioner, Chittoor District.

2 The Labour Court rep. by presiding officer, Ananthapur.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more particularly one in the nature of Writ of Mandamus calling for the records relating to the MP No.32/97 dt.28-112001 on the file of the Labour Court, Anantapur and set aside the same as illegal, arbitrary and further direct the 1st respondent to pay the over time wages for the period from 1.6.1992 to 31.3.1997 as admitted by the Management in their deposition.

Counsel for the Petitioner: MR.P.RAGHAVENDRA REDDY

Counsel for the Respondent No.1: MR.K.BATHI REDDY

Counsel for the Respondent No.2: G.P. FOR LABOUR

The Court made the following :

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ORDER

Heard Mr.P.Raghavendra Reddy, learned counsel for the petitioner. Though this matter had come up on earlier occasion i.e., on 10-03-2005, none appears on behalf of the respondents nor there is any representation. Even today, when the matter is called, none appears and there is no representation.

The petitioners herein who are the employees of the 1st respondent Municipality filed this Writ Petition *inter alia* seeking to assail the correctness of the order passed by the 2nd respondent in M.P.No.32 of 1997, dated 28-11-2001.

The facts leading to filing of this case is that the petitioners have filed initially an application under Section 33 (C) (2) of the Industrial Disputes Act (for short 'the Act') claiming over time wages from the 1st respondent. After contest, the 2nd respondent dismissed the said claim only on the ground that no such relief can be granted and the application has to be filed under Section 2-A (2) of the Act.

On considering the submissions made and on perusal of the record, it is seen that the 2nd respondent has totally failed in regard to nature of application filed which has come up for consideration before it. The very application was filed under Section 33 (C) (2) of the Act. Though it was referred as such, but ultimately the 1st respondent held that such application has to be filed under Section 2-A (2) of the Act. Therefore, there cannot be any such justification. It is not the case on either side that the matter has been referred under Section 2-A (2) of the Act. Further, admittedly, the application is filed under Section 33 (C) (2) of the Act where the questions and also the incidental of the petitioner can as well be gone into on its own merits similar as to the effect of the decision rendered by this Court in ***Rajendranagar Municipality, rep. by its Commissioner v B.V.Perraju and others, Workmen of Rajendranagar Municipality and another*** . In view of the same, the entire matter requires to be reconsidered afresh on merits.

Accordingly, the Writ Petition is allowed setting aside the impugned order, dated 28-11-2001. The matter is remitted back to the 2nd respondent for fresh consideration and disposal on merits in accordance with law after giving notice and opportunity to both sides. The 2nd respondent shall dispose of the same within a period of two months from the date of receipt of a copy of this order. No costs.

11-03-2005.

Note: Issue C.C. in one week

B/o

Hsd

That Rule Nisi has been made absolute as above.

Witness, the Hon'ble Sri Devinder Gupta, the Chief Justice, on this Friday, the Eleventh day of March, 2005.

Asst. Registrar

To

1 The Commissioner, Tirupathi Municipality,

Chittoor District.

2 The Presiding Officer, Labour Court, Ananthapur.

3 2 C. Cs to G.P. for Labour, High Court buildings, Hyderabad (OUT)

4 2 CD copies.